

UNITED STATES BANKRUPTCY COURT
EASTERN District of MICHIGAN

Claimant Ciah Nadin Banks

CASE # 20-41184

Vs

Defendant
U.S. Department of Education

Notice in Support of Adversary Proceeding Claim
for Discharge of Debt

By

Ciah Nadin Banks

Official Dispute of Loan according to Bankruptcy Laws, Federal Statute, Michigan Constitution
Laws & Statutes, Federal Law & Federal Case Law
Bankruptcy Case ID # -(20-41184)

- I Ciah Banks am of the age of maturity to make these claims and the facts herein
- I Ciah Banks am mentally competent to make this Official Claim of Facts for the Record
- I Ciah Banks have personal knowledge of the facts in this Claim
- This Claim is made under penalties of perjury and must be responded to by a counter affidavit within 30 days or it will stand as undisputed fact as a matter of law

"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Made Pursuant to the United States Constitution & Title 28 USC Section 1746

Narrative Statement:

This complaint is initiated by me to this court in respect to relief from discharge of a debt (Student Loan) due to financial hardship and homelessness of myself. The transaction arose as a result of me attending Wayne County Community College in which a loan was provided by the US Department of Education and Nelnet Student Loan Services Due to my current hardship and homelessness, I cannot afford payment of these student loans and maintain basic food clothing shelter and the care of my dependents.

Jurisdiction and Venue

This case is being filed in the Eastern district of Michigan as this is the residence of myself. The US Department of Education is a business under the name of ECMC Education Inc. and is licensed to operate in Delaware.

Statement of Claim

- 1) I filed bankruptcy in United States Bankruptcy Court and was granted a discharge on May 28, 2020; Case number 20-41184.
- 2) The US Department of Education / ECMC Education Inc. is a debt Collector and corporation registered under the State of Delaware on 09/17/2014 File Number 5596111 and is listed as a non-profit entity.
- 3) I have filed Bankruptcy because I am homeless and in financial hardship and unable to pay these creditors and maintain the basic expenses for life expenses, food, clothing, shelter and care for my dependents. This situation is not expected to change because I have no new employment in sight that would change my income bracket.

Federal Case law backs my claim according to:

US Constitution Article 1 Section 8 Clause 4; Brunner vs New York State Higher Education. 831 F2d 395 No 41 Docket 87-5013;
Bryant v. Pennsylvania Higher Education Assistance Agency (In re Bryant), 72 B.R. 913, 915 (Bankr. ED. Pa 1987);
North Dakota State Board of Higher Education v. French (In re French), 62 B. R. 235 (Bankr D Minn. 1986);
Marion v Pennsylvania Higher Education Assistance Agency (In re Marion), 61 B.R. 815 (Bankr. W.D. Pa 1886)
28 U.S. Code Section 3302; Michigan USC Section 440.1201 (v) & (w); USC Title 15 Commerce & Trade Section 1692f;
The Bank of United States v. Planters Bank of Georgia; 22 US 9 Wheat 904 (1824); 11 USC Section 524 (a) (2)

4) The US Department of Education / ECMC Education Inc. claims this debt is not dischargeable pursuant to USC 11 523 8. This part of the code is not positive law. Current Statutory law written by United States Congress has no provision excepting discharge of student loans. Any Case law on 'undue hardship' made as legal opinion expressed via judicial decisions on non positive law (prima facie code) is rebuttable.

5) Michigan Statutes Section 3-305: Defenses and claims in recoupment.

(a) General Rule.-Except as stated in subsection (b), the right to enforce the obligation of a party to pay an instrument is subject to the following:

1. a defense of the obligor based on:

IV. discharge of the obligor in insolvency proceedings;

I affirm that the above stated facts of law are true and correct under penalty of perjury



Authentication/Signature

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS <i>Cihi N. Banks</i>	DEFENDANTS <i>U.S. Department of Education</i>	
ATTORNEYS (Firm Name, Address, and Telephone No.)	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) <i>Official Dispute of Loans according to U.S. Constitution Article 1 Section 8 Clause 4</i>		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<p>FRBP 7001(1) – Recovery of Money/Property</p> <p><input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other</p> <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p>FRBP 7001(3) – Approval of Sale of Property</p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p>FRBP 7001(5) – Revocation of Confirmation</p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p>FRBP 7001(6) – Dischargeability</p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)</p>		
<p>FRBP 7001(6) – Dischargeability (continued)</p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)</p> <p><input checked="" type="checkbox"/> 65-Dischargeability - other</p> <p>FRBP 7001(7) – Injunctive Relief</p> <p><input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other</p> <p>FRBP 7001(8) Subordination of Claim or Interest</p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p>FRBP 7001(9) Declaratory Judgment</p> <p><input type="checkbox"/> 91-Declaratory judgment</p> <p>FRBP 7001(10) Determination of Removed Action</p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p>Other</p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et.seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Ciah N. Banks</i>	BANKRUPTCY CASE NO. <i>20-41184</i>	
DISTRICT IN WHICH CASE IS PENDING <i>Eastern District</i>	DIVISION OFFICE <i>Detroit</i>	NAME OF JUDGE <i>Mark A. Randon</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING		DIVISION OFFICE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE <i>1/19/21</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>Ciah N. Banks</i>	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.